

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ISO-00 JUSE-00 L-03 CAB-09 CIAE-00

COME-00 DODE-00 DOTE-00 INR-11 NSAE-00 RSC-01 FAA-00

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DRAFTED BY:EB/CBA/BP:RJBUSHNELL

APPROVED BY:EB/CBA/BP:HJWINTER

JUSTICE DROSENTHAL (SUBS)

EB/TT/OA JMEADOWS(INFO)

L/EB MSPIEGEL (DRAFT)

EUR/WE KSHIRLEY (INFO)

EUR/WE MHABIB (INFO)

EUR/WE EBIEGEL(INFO)

EUR/REP MLEVINE(INFO)

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R 302130Z AUG 74

FM SECSTATE WASHDC

TO AMEMBASSY BERN

AMEMBASSY BRUSSELS

AMEMBASSY PARIS

AMEMBASSY THE HAGUE

USMISSION OECD PARIS

AMCONSUL ZURICH

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E.O. 11652: N/A

TAGS: ETRD, OECD

SUBJ : ANTITRUST INVESTIGATION OF CERTAIN FOREIGN
AIRLINES

REF: STATE 174396

1. IN RESPONSE TO REQUEST FROM THE DEPARTMENT AND COM-
PLAINTS FROM SEVERAL OF THE INVOLVED COUNTRIES, JUSTICE
DEPARTMENT HAS MADE CAREFUL ANALYSIS TO DETERMINE HOW THE
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REQUIRED INFORMATION COULD BE OBTAINED WITH LEAST POSSIBLE

ADVERSE EFFECT ON BILATERAL RELATIONSHIPS INVOLVED. JUSTICE HAS NOW DEVELOPED A COMPROMISE PROPOSAL AND PRESENTED IT TO US COUNSELS FOR THE FOREIGN AIRLINES AND, AT MEETINGS IN THE DEPARTMENT, TO EMBASSY OFFICERS OF THE FOUR COUNTRIES.

2. INITIAL REACTIONS HAVE BEEN RESTRAINED BUT GENERALLY POSITIVE, WITH EMBASSIES PROMISING TO OBTAIN DEFINITIVE RESPONSES FROM THEIR GOVERNMENTS.

3. THE JUSTICE DEPARTMENT PROPOSAL (COPY BEING AIRPOUCHED) CONTAINS FOLLOWING MAJOR POINTS:

(A) THE SUBPOENAS WILL BE WITHDRAWN.

(B) THE SUBPOENAED AIRLINES AND EXECUTIVES WILL BE FREE FROM ANY LEGAL LIABILITY ARISING OUT OF THIS INVESTIGATION, ALTHOUGH THE EXECUTIVES MAY BE ASKED TO PRESENT EVIDENCE, AT THEIR CONVENIENCE, AS NON-PARTY WITNESSES TO A GRAND JURY.

(C) THE CONCERNED EXECUTIVES WILL APPEAR INFORMALLY AT THEIR CONVENIENCE TO DISCUSS WITH JUSTICE OFFICIALS THEIR KNOWLEDGE OF EVENTS THAT ARE SUBJECT OF THE INVESTIGATION.

(D) RELEVANT DOCUMENTS WILL BE SUBMITTED INFORMALLY BY THE AIRLINES.

4. THE FOUR AIRLINES HAVE ALSO BEEN INFORMED THAT RETURN DATES ON THE SUBPOENAS HAVE BEEN IDEFINITELY POSTPONED. WHETHER THE SUBPOENAS WILL BE WITHDRAWN DEPENDS ON WHETHER THE JUSTICE PROPOSAL IS ACCEPTED.

5. DEPARTMENT WILL KEEP ADDRESSEE POSTS INFORMED OF RESPONSES TO JUSTICE PROPOSAL. MEANWHILE ADDRESSEES MAY DRAW ON INFORMATION IN THIS MESSAGE AND THE PROPOSAL IN DISCUSSIONS WITH HOST COUNTRY CONTACTS. DEPARTMENT HAS INFORMED SWISS EMBASSY THAT IT DOES NOT PLAN TO REPLY TO SWISS NOTE (REFTEL) UNTIL RESPONSES TO JUSTICE PROPOSAL ARE RECEIVED. KISSINGER
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